

No. \_\_\_\_\_

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**IN THE SUPREME COURT OF THE UNITED STATES**

**October Term, 2024**

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**DEREK DON POSEY**

**Petitioner,**

**v.**

**THE STATE OF OKLAHOMA**

**Respondent.**

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**APPLICATION FOR EXTENSION OF TIME  
TO FILE PETITION FOR WRIT OF CERTIORARI  
TO THE OKLAHOMA COURT OF CRIMINAL APPEALS**

To the Honorable Neil M. Gorsuch, Associate Justice of the United States Supreme Court,  
and the Circuit Justice for the Tenth Circuit:

Derek Don Posey, the Petitioner, is incarcerated by the State of Oklahoma under a sentence of death. Petitioner prays for a sixty-day extension of time, up to and including October 12, 2024, to file his petition for writ of certiorari in this Court.

The Oklahoma Court of Criminal Appeals (OCCA), a state court of last resort, affirmed Petitioner's conviction for two counts of Murder in the First Degree (21 O.S. § 701.7 (A)), and one count of Debit Card Theft (21 O.S. 1550.22(a)) on April 18, 2024. *See* Exhibit A. A petition for rehearing was denied by the same court on May 15, 2024. *See* Exhibit B. This represented a final judgment in the case, and therefore a Petition for Writ of Certiorari to the Oklahoma Court of

Criminal Appeals is presently due in this Court on or before August 13, 2024. This application is submitted at least ten days prior to the present due date for the Petition for Writ of Certiorari.

This Court's jurisdiction arises pursuant to 28 U.S.C. § 1257(a). Petitioner has been convicted of a capital offense and sentenced to death in violation of certain rights and protections afforded him under the United States Constitution.

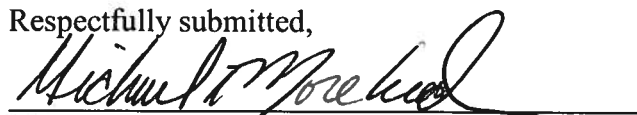
This case presents a number of federal constitutional issues, including, but not limited to, whether Petitioner was denied a fair trial by the improper dismissal of prospective jurors in violation of the Sixth and Fourteenth Amendments, and whether he was denied a fair sentencing hearing, as guaranteed by the Eighth and Fourteenth Amendments, by unconstitutionally broad applications of statutory aggravating circumstances. Petitioner deserves a fair opportunity to address these issues, and perhaps others, in a Petition for Writ of Certiorari.

Counsel of record in this case, Michael D. Morehead, is an attorney with the Oklahoma Indigent Defense System (OIDS), assigned to the Appellate Division (West). Counsel of record has represented Petitioner throughout the direct appeal.

Currently, counsel of record represents, as lead counsel, one client under a sentence of death as well as fourteen non-capital clients. During the time between May 15, 2024, the time the OCCA granted Petitioner's Petition for Rehearing, and the present, counsel has spent considerable time preparing briefs and otherwise managing other cases, some with deadlines prior to Petitioner's. As a result of these duties toward other clients with pressing deadlines, counsel for Petitioner has been unable to devote the necessary time to properly research and prepare the Petition for Writ of Certiorari. Due to these factors and others, counsel is unable to prepare an adequate Petition for Writ of Certiorari prior to August 13, 2024.

Because of these compelling circumstances, Petitioner respectfully requests an additional sixty days to file his Petition for Writ of Certiorari as allowed by Supreme Court Rule 13(5). Petitioner asks that an order be issued establishing the due date for Petitioner's Petition for Writ of Certiorari as October 12, 2024.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael D. Morehead", is written over a horizontal line.

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